

# STATE OF NEW YORK

1826--C

Cal. No. 225

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

Introduced by Sens. KENNEDY, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BOYLE, BRESLIN, BROOKS, CARLUCCI, COMRIE, GALLIVAN, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KRUEGER, LANZA, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, SALAZAR, SANDERS, SAVINO, SERRANO, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to enacting the "New York call center jobs act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York call center jobs act".

3 § 2. The labor law is amended by adding a new article 21 to read as  
4 follows:

### ARTICLE 21

#### NEW YORK CALL CENTER JOBS ACT

##### Section 770. Definitions.

8 771. List of relocated call centers.

9 772. Grants, guaranteed loans and tax benefits.

10 773. Procurement contracts.

11 774. State benefits for workers.

12 775. No private right of action.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD02106-08-9

1           776. Regulations.

2           § 770. Definitions. As used in this article:

3           1. The term "call center" means a facility or other operation whereby  
4 employees receive phone calls or other electronic communication for the  
5 purpose of providing customer assistance or other service.

6           2. (a) The term "call center employer" means any business entity that  
7 employs fifty or more employees, excluding part-time employees; or fifty  
8 or more employees that in the aggregate work at least fifteen hundred  
9 hours per week, excluding overtime hours, for the purpose of staffing a  
10 call center.

11           (b) The term "part-time employee" means an employee who is employed  
12 for an average of fewer than twenty hours per week or who has been  
13 employed for fewer than six of the twelve months preceding the date on  
14 which notice is required under this article.

15           § 771. List of relocated call centers. 1. A call center employer that  
16 intends to relocate a call center from New York state to a foreign coun-  
17 try or any other state, or reduce call volume handled at call centers in  
18 New York state by at least thirty percent, measured as the call volume  
19 of the previous calendar month compared to the average monthly call  
20 volume of the previous twelve months, and intends to relocate such oper-  
21 ations from New York state to a foreign country or any other state,  
22 shall notify the commissioner at least one hundred days before such  
23 relocation.

24           2. A call center employer that violates subdivision one of this  
25 section shall be subject to a civil penalty not to exceed ten thousand  
26 dollars for each day of such violation, except that the commissioner may  
27 reduce such amount for just cause shown.

28           3. The commissioner shall compile an annual list of all call center  
29 employers that relocate or reduce call volume pursuant to subdivision  
30 one of this section, and such list shall be made available to the public  
31 and shall prominently display a link to the list on the department's  
32 website.

33           4. The commissioner shall make the list created pursuant to subdivi-  
34 sion three of this section, available to the public and shall prominent-  
35 ly display a link to the list on the department's website.

36           § 772. Grants, guaranteed loans and tax benefits. 1. Except as  
37 provided in subdivision three of this section and notwithstanding any  
38 other provision of law, a call center employer that appears on the list  
39 described in section seven hundred seventy-one of this article shall be  
40 ineligible for any direct or indirect state grants, state guaranteed  
41 loans, tax benefits or other financial governmental support for a period  
42 of five years from the date such list is published.

43           2. Except as provided in subdivision three of this section and  
44 notwithstanding any other provision of law, a call center employer that  
45 appears on the list described in section seven hundred seventy-one of  
46 this article shall remit the unamortized value of any grant or guaran-  
47 teed loans, or any tax benefits or other governmental support it has  
48 previously received in the past five years. The provisions of this  
49 subdivision shall apply to grants, loans, tax benefits and financial  
50 governmental assistance that is entered into on or after the effective  
51 date of this article. Nothing in this subdivision shall be deemed to  
52 prevent the call center employer from receiving any grant to provide  
53 training or other employment assistance to individuals who are selected  
54 as being in particular need of training or other employment assistance  
55 due to the transfer or relocation of the call center employer's facility  
56 or operating units.

1 3. The commissioner, in consultation with the appropriate agency  
2 providing a loan or grant, may waive the requirement provided under  
3 subdivision two of this section if the call center employer demonstrates  
4 that such requirement would:

5 (a) threaten state or national security;

6 (b) result in substantial job loss in the state of New York; or

7 (c) harm the environment.

8 § 773. Procurement contracts. The head of each state agency shall  
9 ensure that all state-business-related contracts for call center and  
10 customer service work be performed by state contractors or other agents  
11 or subcontractors entirely within the state of New York. State contrac-  
12 tors who currently perform such work outside the state of New York shall  
13 have two years following the effective date of this article to comply  
14 with this section; provided, that if any such contractors which perform  
15 work outside this state adds customer service employees who will perform  
16 work on such contracts, those new employees shall immediately be  
17 employed within the state of New York, except that businesses subject to  
18 a contract agreed to prior to the effective date of this article with  
19 terms extending beyond a date greater than two years after the effective  
20 date of this article shall be subject to the provisions of this subdivi-  
21 sion at the next point in which the contract is subject to renewal.

22 § 774. State benefits for workers. No provision of this article shall  
23 be construed to permit withholding or denial of payments, compensation,  
24 or benefits under any other state law, including but not limited to  
25 state unemployment compensation, disability payments or worker retrain-  
26 ing or readjustment funds, to workers employed by call center employers  
27 that relocate to a foreign country.

28 § 775. No private right of action. Nothing set forth in this article  
29 shall be construed as creating, establishing, or authorizing a private  
30 cause of action by an aggrieved person against a call center employer  
31 who has violated, or is alleged to have violated, any provision of this  
32 article.

33 § 776. Regulations. The commissioner shall promulgate such rules and  
34 regulations as shall be necessary and proper to effectuate the purposes  
35 and provisions of this article.

36 § 3. This act shall take effect on the one hundred eightieth day after  
37 it shall have become a law.